

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

DeLeys et al Atty. Ref.: 2551-141; Confirmation No. 3673

Appl. No. 10/822,871 TC/A.U. 1648

Filed: April 13, 2004 Examiner: Blumell

For: SYNTHETIC ANTIGENS FOR THE DETECTION OF ANTIBODIES TO HEPATITIS C VIRUS

* * * * *

September 23, 2010

Office of PCT Legal Administration
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RULE 181 PETITION

Correction of the Patent Office records to indicate that the parent application no. 07/920,266 is a 371 U.S. National Phase of International Application No. PCT/EP91/024089 filed December 13, 1991 is requested.

The undersigned acknowledges, with appreciation, the teleconference of September 23, 2010 with Ms Tamara Graysay of the PCT Legal Office, who suggested that the present Petition be filed to again request a Corrected Filing Receipt in the above and correction of the Patent Office records relating to the parent application no. 07/920,266.

A copy of the history of application no. 07/920,286 obtained from the Patent Office is being concurrently filed and identified in the PTO IFW as an "NPL" document.

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A fee is not believed to be required for consideration of the present Petition however the Office is authorized to charge the undersigned's Deposit Account No. 14-1140 for any required fee.

A Corrected Filing Receipt is requested which accurately reflects the status of the parent application no. 07/920,266 as a 371 U.S. National Phase of International Application No. PCT/EP91/024089 filed December 13, 1991.

The applicants have filed similar requests on July 2, 2004, April 27, 2005, May 9, 2005, February 20, 2007, May 27, 2009¹. The undersigned has received from the Patent Office a Notice Regarding Benefit/Priority Claim(s) dated September 27, 2004 and a Response to Request for Corrected Filing Receipt dated June 3, 2009 indicating that the prior filed Non-provisional application no. 07/920,266 "has been improperly indicated as a National Stage (35 U.S.C. 371) Application". The latest "Response" states the following:

"The Office's records show that the prior-filed application is an application filed under 35 U.S.C. 111(a). The Office has entered the benefit claim to the prior-filed application as a benefit claim to an application filed under 35 U.S.C. 111(a). Any request for a corrected filing receipt to include the indication that the prior-filed application is a national stage application will not be granted unless the applicant supplies evidence that the prior application was in fact a national stage application. Accordingly, applicant should not submit

¹ The Requests filed July 2, 2004, April 27, 2005 and May 9, 2005 identified international application no. PCT/EP91/024089 as having been filed December 31, 1991, as identified in the original Patent Office Filing Receipt.

International Application no. PCT/EP91/024089 was filed December 13, 1991, as noted in the applicants Preliminary Amendment filed April 13, 2004, the applicants Declaration filed August 18, 2004, the applicants Renewed Request filed February 20, 2007, the applicants Request for Correction of Corrected Filing Receipt filed May 27, 2009, the Supplemental Application Data Sheet filed May 27, 2009, the Notification of Acceptance mailed in application no. 07/920,266 reproduced below, and the attached Missing Requirements Under 35 U.S.C. 371 dated August 28, 1992 mailed in application no. 07/920,266.

The first paragraph of the specification has been corrected in a concurrently-filed Amendment.

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such request without such evidence. Applicant should submit an amendment (or an applicants data sheet (ADS) if the benefit claim was submitted in an ADS) to delete the indication that the prior-filed application is a national stage application."

The "evidence" described in the "Response" dated June 3, 2009 and quoted above was supplied however in at least the applicants Request of February 20, 2007 and Response of April 27, 2005. Specifically, the applicants previously supplied a copy of the Notice of Acceptance dated January 6, 1993 from Application No. 07/920,286 confirming that the application no. 07/920,286 is a U.S. national phase of PCT/EP91/02409. See page 5 of the Renewed Request filed February 20, 2007 and page 5 of the applicants Request for Correction of Filing Receipt filed by facsimile on April 27, 2005. The following is a further reproduction of the Notification of Acceptance confirming the Patent Office treatment of application no. 07/920,286 as a U.S. national phase of PCT/EP91/02409:

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NIXON & VANDERHYE PC8 Fax:703-816-4100

Apr 27 2005 14:01 P.05

COPY

WILLIAM W. BECKETT BANNER, BIRCH, MC KEE & BECKETT 1001 G STREET, N.W., ELEVENTH FLOOR WASHINGTON, D.C. 20001-4597		UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495
JAN 08 1993		Date of Mailing 6 JAN 1993
		File Reference 137,040502
IDENTIFICATION OF THE INTERNATIONAL APPLICATION		
International application Number PCT/EP91/02409	International filing date 13 DEC 1991	Priority date claimed 14 DEC 1990
Applicant for DO/EO/US DELEYNS, ROBERT J. POLLET, DIRK MAERTENS, GEERT AND VAN HELVERSTADT		
NOTIFICATION		
The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as a <input checked="" type="checkbox"/> Designated Office, <input type="checkbox"/> Elected Office, has determined that the above identified international application has met the requirements of 35 U.S.C. 371 and 37 CFR <input checked="" type="checkbox"/> 1.494, <input type="checkbox"/> 1.495 and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.		
The United States Serial Number assigned to the application and the relevant dates are: 11/320286 14 OCT 1992 14 OCT 1992		
U.S.NATIONAL SERIAL NO. 11/320286	35 U.S.C. 102(e) DATE 14 OCT 1992	DATE OF RECEIPT 35 U.S.C. 371 REQUIREMENTS 14 OCT 1992
<input checked="" type="checkbox"/> A request for immediate examination under 35 U.S.C. 371 (f) was received on 14 OCT 1992 , and the application will be examined in turn.		
<input type="checkbox"/> No request for immediate examination under 35 U.S.C. 371(f) was received. The application will not be processed or examined before the time limit set forth in either <input type="checkbox"/> PCT Article 23 (Chapter I of the PCT), or <input type="checkbox"/> PCT Article 40 (Chapter II of the PCT) whichever is applicable.		
UNITED STATES DESIGNATED/ELECTED OFFICE		
ADDRESS ONLY: COMMISSIONER OF PATENTS AND TRADEMARKS Box PCT, Attn: DO/EO/US Washington, D.C. 20231	AUTHORIZED OFFICER M. DeLeys	
Form PCT/DO/EO/903 (U.S. Version) (April 1987)		
U.S. DEPARTMENT OF COMMERCE - PTO		

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The applicants Preliminary Amendment of April 13, 2004 identified application no. 07/920,286 as a U.S. national phase of PCT/EP91/02409.

The following evidence that application no. 07/920,286 is a 371 U.S. National Phase of PCT/EP91/02489 is contained in the attached file history and reproduced below:

The file jacket indicating along the top "FILED UNDER 35 USC 371"

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Staple Issued					
FILED UNDER 35 USC 371					
PARENT DATE		PATENT NUMBER			
SERIAL NUMBER		FILING DATE	CLASS	SUBCLASS	GROUP ART UNIT
07/530,286		10/14/92	320	415	5
EXAMINER					
ROBERT J. DELEYS, GRIMBERGEN, BELGIUM; DIRM POLYBT, WILRIJEN, BELGIUM; GERTY MAESMEERS, BRUGGE, BELGIUM; HUGO VAN MECHAMMEL, LARNIC, BELGIUM.					
CONTINUING PATENT APPLICATIONS					
VERIFIED <i>Dew</i>					
FOREIGN/PCT APPLICATIONS					
VERIFIED		PCT	PCT/EP91/02409	10/13/91	
<i>Dew</i>		EPO	90124261.2	12/14/90	
FEE PAID BY CASH OR CREDIT CARD					
Foreign priority claimed <input type="checkbox"/> yes <input checked="" type="checkbox"/> no US 5 USC 119 conditions met <input type="checkbox"/> yes <input checked="" type="checkbox"/> no					
AS FILED → STATE OR COUNTRY SHEETS DRWGS. TOTAL CLAIMS INDEP. CLAIMS FILING FEE RECEIVED ATTORNEY'S DOCKET NO.					
TEX 8 25 19 \$1,361.00 DUY, GIA HUNG					
Verified and Acknowledged: Examiner's Initials <i>Dew</i>					
EDWARD J. MC KEE SANGER, ELLEN, MC KEE & REED PLLC 1801 K ST., N.W. - 5TH FLOOR WASHINGTON, DC 20001-4597					
SYNTHETIC OXIGEN FOR THE DETECTION OF ANTIVIRUSES TO SUPPORTIVE OF VIRUS					
U.S. DEPT. OF COMM-Pat. & TM Office—PTO-436L (rev. 10-78)					
PARTS OF APPLICATION FILED SEPARATELY					
NOTICE OF ALLOWANCE MAILED		PREPARED FOR ISSUE		CLAIMS ALLOWED	
		Assistant Examiner	Docket Clerk	Total Claims	Print Claim
ISSUE FEE				DRAWING	
Mount Due	Date Paid			Sheets Drwg.	Figs. Drwg.
Label Area		ISSUE CLASSIFICATION		ISSUE BATCH NUMBER	
		Class	Subclass		
WARNING: The information disclosed herein may be restricted. Unauthorized disclosure may be prohibited by the United States Code Title 35, Sections 122, 181 and 368. Possession outside the U.S. Patent & Trademark Office is restricted to authorized employees and contractors only.					

PTO-436
9/90

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The Notice of Missing Requirements dated August 28, 1992 which set a due date for filing the inventors' Declaration by October 14, 1992 (i.e., 22 months from the earliest claimed priority date):

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10/920286

William W. Beckett BANNER, BIRCH, MCKEE & BECKETT 1001 G Street, N.W., Eleventh Floor Washington, D.C. 20001-4597		UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) MISSING REQUIREMENTS UNDER 35 U.S.C. 371 AND 37CFR 1.494 OR 1.495 Date of mailing 28 AUG 1992 Applicant's or Agent's Reference 137.040502
IDENTIFICATION OF THE INTERNATIONAL APPLICATION IA Number PCT/EP91/02409 IHD Priority Date Claim: 13 DECEMBER 1991 14 DECEMBER 1990 (14.12.30) Applicant for DO/EO/US DELEYS, Robert J. et al.		
NOTIFICATION The following items required to enter the United States Patent and Trademark Office as a <input checked="" type="checkbox"/> Designated <input type="checkbox"/> Elected Office by <input checked="" type="checkbox"/> 30 months from the earliest claimed priority date have been received: From the International Bureau: <input type="checkbox"/> Copy of application in the language of filing, i.e., English. <input type="checkbox"/> English, as published when filed in a non-publication language. <input type="checkbox"/> filing and publication, i.e., <input type="checkbox"/> Copy of Article 19 amendments in the language of publication. <input type="checkbox"/> International Preliminary Examination Report in English and its Annexes, if any, in language in which filed. From applicant: <input type="checkbox"/> U.S. National Fee. <input type="checkbox"/> Cash or declaration of applicant(s) for DO/EO/US. <input type="checkbox"/> Translation of application into English. <input type="checkbox"/> Translation of Article 19 amendments into English. <input type="checkbox"/> Translation of Annexes, if any, to International Preliminary Examination Report into English. <input type="checkbox"/> Copy of Article 19 amendments, if not transmitted by the International Bureau, in the language of publication. The following items must be received by <input checked="" type="checkbox"/> 32 months from any claimed priority date for the application to be accepted for examination: <input type="checkbox"/> Translation of application into English <input type="checkbox"/> Processing fee for providing the translation later than <input checked="" type="checkbox"/> 20 <input type="checkbox"/> 30 months from any claimed priority date (37 CFR 1.492 (3)) \$10.00. U.S. National Fee: <input type="checkbox"/> International preliminary examination fee paid to USPTO (37 CFR 1.482)-\$430 (Small Entity \$165) <input type="checkbox"/> International preliminary examination fee paid to USPTO (37 CFR 1.482) by international search fee paid to USPTO (37 CFR 1.445) (a) (2); \$375 (Small Entity \$185) <input type="checkbox"/> No international preliminary examination fee (37 CFR 1.482) and no international search fee (37 CFR 1.445) (a) (2); paid to USPTO-\$50 (Small Entity \$25) <input type="checkbox"/> International preliminary examination fee paid to USPTO (37 CFR 1.482) and all claims satisfied provisions of PCT Article 33(1) to (4)-\$30 (Small Entity \$15) <input type="checkbox"/> Cash or declaration of the applicant(s) for DO/EO/US <input type="checkbox"/> Surcharge for providing the cash and/or cash or declaration later than <input checked="" type="checkbox"/> 20 <input type="checkbox"/> 30 months from any claimed priority date (37 CFR 1.492(e)) \$125 (Small Entity \$60) ALL REQUIREMENTS UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495, INCLUDING ANY NECESSARY SURCHARGE AND PROCESSING FEE, MUST BE RECEIVED BY <input checked="" type="checkbox"/> 20 <input type="checkbox"/> 30 MONTHS FROM ANY CLAIMED PRIORITY DATE TO AVOID ABANDONMENT OF THE APPLICATION IN THE UNITED STATES OF AMERICA. <input type="checkbox"/> The Article 19 amendments are cancelled since a translation was not provided by <input checked="" type="checkbox"/> 20 <input type="checkbox"/> 30 months from any claimed priority date as required by 37 CFR 1.494(d) (3)(i), 1.495(d). UNITED STATES DESIGNATED/ELECTED OFFICE Address Only: Commissioner of Patents and Trademarks P.O. PCT Washington, D.C. 20231 Authorized Officer John DeLeys		

FORM PTO-181 (02-90) (February 1990)

U.S. DEPARTMENT OF COMMERCE - PATENT AND TRADEMARK OFFICE

The applicants Transmittal Letter submitting the Declaration on October 14, 1992, as acknowledged by the PCT/PTO date stamp:

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U.S. DEPARTMENT OF PATENT & TRADEMARK OFFICE		RECEIVED ATTY'S DOCKET NUMBER			
TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)					
INTERNATIONAL APPLICATION NO.	INTERNATIONAL FILING DATE	PRIORITY DATE CLAIMED			
PCT/EP21/03403	13 December 1991 (13.12.91)	14 December 1990 (14.12.90)			
TITLE OF INVENTION SYNTHETIC ANTAGENS FOR THE DETECTION OF ANTIBODIES TO HEPATITIS C VIRUS					
APPLICANT(S) FOR DO/EO/US DELLEYS, Robert J.; POLLAK, Dirk; MAERKENS, Coert; and VAN HEUVERWIJCK, Paola					
Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items under 35 U.S.C. 371:					
1. <input type="checkbox"/> This express request to immediately begin national examination procedures (35 U.S.C. 371(e)).					
2. <input checked="" type="checkbox"/> The U.S. National Fee (35 U.S.C. 371(c)(1)) and other fees as follows:					
CLAIMS	(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(4) RATE	(5) CALCULATIONS
	TOTAL CLAIMS	>20 =		x \$12.00	\$
	INDEPENDENT CLAIMS	>3 =		x \$36.00	
	MULTIPLE DEPENDENT CLAIM(S) (If applicable)			+ \$120.00	
BASIC NATIONAL FEE (37 CFR 1.492(a)(1)-(4)):					
<input type="checkbox"/> International preliminary examination fee paid to USPTO (37 CFR 1.482)			\$300		
<input type="checkbox"/> No International preliminary examination fee paid to USPTO (37 CFR 1.482) but International search fee paid to USPTO (37 CFR 1.445 (a)(2))			\$370		
<input type="checkbox"/> Neither International preliminary examination fee (37 CFR 1.482) nor International search fee (37 CFR 1.445(a)(2)) paid to USPTO.....			\$500		
<input type="checkbox"/> International preliminary examination fee paid to USPTO (37 CFR 1.482) and all claims satisfied provisions of PCT Article 33(2) to (4).....			\$50		
Surcharge of \$120, for furnishing the National fee or cash or declaration later than 18 mo. <input type="checkbox"/> 30 mos. from the earliest claimed priority date (37 CFR 1.492(e)).			\$ 120.00		
			TOTAL OF ABOVE CALCULATIONS x 120.00		
Reduction by 1/2 for filing by small entity, if applicable. Affidavit must be filed also. (Note 37 CFR 1.9, 1.27, 1.28.)			\$ 65.00		
			SUBTOTAL + 65.00		
Processing fee of \$30, for furnishing the English Translation later than 18 mo. <input type="checkbox"/> 30 mos. from the earliest claimed priority date (37 CFR 1.492(f)).			--		
			TOTAL NATIONAL FEE \$ 65.00		
Fee for recording the enclosed assignment (37 CFR 1.21(h)).			+ 40.00		
			TOTAL FEES ENCLOSED \$ 105.00		
<p>a. <input checked="" type="checkbox"/> A check in the amount of \$ 105.00 to cover the above fees is enclosed.</p> <p>b. <input type="checkbox"/> Please charge my Deposit Account No. _____ in the amount of \$ _____ to cover the above fees. A duplicate copy of this sheet is enclosed.</p> <p>c. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 19-0733. A duplicate copy of this sheet is enclosed.</p>					

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ATTORNEY'S DOCKET NUMBER
C 40502

3. A copy of the International Application as filed (35 U.S.C. 371(c)(2))
a. is transmitted herewith (required only if not transmitted by the International Bureau).
b. is not required, as the application was filed in the United States Receiving Office (RO/US).
c. has been transmitted by the International Bureau.
4. A translation of the International Application into English (35 U.S.C. 371 (c)(2)).
5. Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))
a. are transmitted herewith (required only if not transmitted by the International Bureau).
b. have been transmitted by the International Bureau.
6. A translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
7. An oath or declaration of the inventor (35 U.S.C. 371(c)(4)).
8. A translation of the Annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).

Other document(s) or information included:

9. An Information Disclosure Statement under 37 CFR 1.97 and 1.98.

10. An assignment document for recording.

Please mail the recorded assignment document to:

a. the person whose signature, name & address appears at the bottom of this page.
b. the following:

14. Also submitted is a Verified Statement (Declaration) Claiming Small Entity Status.

11. The above checked items are being transmitted

a. before the 18th month publication.
b. after publication and the Article 20 communication but before 20 months from the priority date.
c. after 20 months but before 22 months (surcharge and/or processing fee included).
d. after 22 months (surcharge and/or processing fee included).

Note: Petition to revive (37 CFR 1.137(a) or (b)) is necessary if 35 U.S.C. 371 requirements submitted after 22 months, and no proper demand for International Preliminary Examination was made by 18 months from the earliest claimed priority date.

e. by 30 months and a proper demand for International Preliminary Examination was made by the 18th month from the earliest claimed priority date.

f. after 30 months but before 32 months and a proper demand for International Preliminary Examination was made by the 18th month from the earliest claimed priority date (surcharge and/or processing fee included).

g. after 32 months (surcharge and/or processing fee included).
Note: Petition to revive (37 CFR 1.137(a) or (b)) is necessary if 35 U.S.C. 371 requirements submitted after 32 months and a proper demand for International Preliminary Examination was made by 18 months from the earliest claimed priority date.

12. At the time of transmittal, the time limit for amending claims under Article 19

a. has expired and no amendments were made.
b. has not yet expired.

13. Certain requirements under 35 U.S.C. 371 were previously submitted by the applicant on August 13, 1992 date amount of \$1,316.00.

Edward F. McXie

NAME

Banner, Bisch, McKie & Beckett

ADDRESS

1900 G Street, N.W., Eleventh Floor

Washington, D.C. 20001-4597

SIGNATURE

17,335

REGISTRATION NUMBER

Form PTO-1000 Rev. 3-90

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The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR

1.494 or 1.495 mailed January 6, 1993:

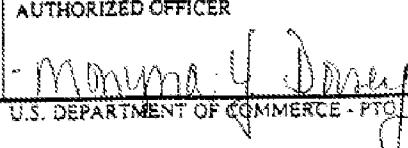
DeLeys et al

Appl. No. 10/822,871

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WILLIAM W. BECKETT BANNER, BIRCH, MC KEE & BECKETT 1001 G STREET, N.W., ELEVENTH FLOOR WASHINGTON, D.C. 20001-4597		UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495
		Date of Mailing 6 JAN 1993
		File Reference 137,040502
IDENTIFICATION OF THE INTERNATIONAL APPLICATION		
International application Number PCT/EP91/02409	International filing date 13 DEC 1991	Priority date claimed 14 DEC 1990
Applicant for DO/EO/US DEILEYS, ROBERT J. BOLLIET, DIRK MAERTENS, GEERT AND VAN HELMERSWY		
NOTIFICATION		
The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as a <input checked="" type="checkbox"/> Designated Office, <input type="checkbox"/> Elected Office, has determined that the above identified international application has met the requirements of 35 U.S.C. 371 and 37 CFR <input checked="" type="checkbox"/> 1.494, <input type="checkbox"/> 1.495 and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.		
The United States Serial Number assigned to the application and the relevant dates are: 17/920286 14 OCT 1992 14 OCT 1992		
U.S. NATIONAL SERIAL NO. 17/920286	35 U.S.C. (102(e)) DATE 14 OCT 1992	DATE OF RECEIPT 35 U.S.C. 371 REQUIREMENTS
<input checked="" type="checkbox"/> A request for immediate examination under 35 U.S.C. 371(f) was received on 14 OCT 1992 and the application will be examined in turn.		
<input type="checkbox"/> No request for immediate examination under 35 U.S.C. 371(f) was received. The application will not be processed or examined before the time limit set forth in either <input type="checkbox"/> PCT Article 23 (Chapter I of the PCT), or <input type="checkbox"/> PCT Article 40 (Chapter II of the PCT), whichever is applicable.		
UNITED STATES DESIGNATED/ELECTED OFFICE		
ADDRESS ONLY: COMMISSIONER OF PATENTS AND TRADEMARKS Box PCT, Ann. DO/EO/US Washington, D.C. 20231	AUTHORIZED OFFICER  U.S. DEPARTMENT OF COMMERCE - PTO	
Form PCT/DO/EO/903 (U.S. Version) (April 1987)*		

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The Patent Office "DO/US Worksheet" acknowledging that applicants have met the requirements of 35 U.S.C. 371 as of October 14, 1992:

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DO/US WORKSHEET							
U.S. APPLICATION NO.		INTERNATIONAL APPLICATION NO.		PRIORITY DATE	CHAP II	DUE DATE	20 MO. IN MC
		PCT/EP91/2409		14 Dec 90			<input type="checkbox"/>
		INTERNATIONAL FILING DATE			FIRST NAMED APPLICANT FOR DO/US		<input type="checkbox"/>
		13 Dec 91			De Leys, Robert J.		TOTAL # APPLICANTS
LANGUAGE OF FILED APPLICATION:		ENGLISH		DATE OF RECEIPT OR MAILING:		PUBLICATION:	
ARTICLE 20 RECEIPTS		NORMAL FROM IB <input type="checkbox"/> FROM APPLICANT <input type="checkbox"/>		PCT/IB/302 11 Feb 92		PUBL. NO. WO21054	
REQUEST - NO 101. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		DESCRIPTION <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		PCT/IB/310A 10 July 92		PUBL. DATE 25 June 92	
CLAIMS <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		DRAWINGS <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		PCT/IB/310(FD) - PRIORITY DOC. COPY 26 JUNE 92		LANGUAGE ENGLISH	
COPY OF SEARCH <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		NO DRAWINGS ON FILING <input checked="" type="checkbox"/>		PCT/IB/331 - US ELECTED N/A		GAZETTE ISSUE	
TOTAL NO. OF PRIORITY DOCS. /				PCT/IB/409 - IPER RECEIVED N/A		NOT PUBLISHED: <input type="checkbox"/> US ONLY DO/EO <input checked="" type="checkbox"/> AS OF EP REQUEST	
RECEIPTS FROM APPLICANT UNDER 35 U.S.C. 371				35 U.S.C. 371 - RECEIPT OF REQUEST 14 Oct 92		REQUESTED DOCUMENTS FROM IB THAT ARE NOT IN THE FILE: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO DATE REQUESTED	
COMPLETE AT <input type="checkbox"/> 20 MO <input type="checkbox"/> 30 MO.				DATE ASSIGNMENT RECEIVED 14 Oct 92		PCT GAZETTE PAGE SEARCH REPORT OTHER	
NATIONAL FEE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO OATH/DECL. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				DATE PRELIMINARY AMENDMENT RECEIVED N/A		INFORMALITIES NOTED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> OATH/DECLARATION <input type="checkbox"/> OTHER	
TRANSLATION OF: REQUEST <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO DESCRIPTION <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO CLAIMS <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO ABSTRACT <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				DATE DISCLOSURE STATEMENT RECEIVED N/A			
WORDS IN DRAWING <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO ARTICLE 19 AMDT. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				DATE DO/EO/905 MAILED 28 Aug 92			
ARTICLE 34 AMDT. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> Cancelled <input type="checkbox"/> None				DATE 905 RESPONSE RECEIVED 14 Oct 92			
ARTICLE 36(3) AMDT. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> Cancelled <input type="checkbox"/> None				DATE DO/EO/903 MAILED - ACCEPTANCE NOTICE 16/12/92			
COMPLETE AT <input checked="" type="checkbox"/> 22 MO <input type="checkbox"/> 32 MO.				DATE DO/EO/909 MAILED - ABANDONMENT NOTICE N/A			
NATIONAL FEE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> Surcharge OATH/DECL. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> Surcharge				DATE 35 U.S.C. 371 REQUIREMENTS MET 14 Oct 92			
TRANSLATION OF: <input type="checkbox"/> Processing fee REQUEST <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO DESCRIPTION <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO CLAIMS <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO ABSTRACT <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				OTHER RECEIPTS FROM THE APPLICANT AND DATE RECEIVED: <input type="checkbox"/> PIOL - 1449 DISCLOSURE DOC. <input type="checkbox"/> ASSIGNMENT <input type="checkbox"/> NEW CLAIMS FOR PRIORITY <input type="checkbox"/> OTHER			
WORDS IN DRAWING <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO ARTICLE 34 AMDT. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> Cancelled <input type="checkbox"/> None							
ARTICLE 36(3) AMDT. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> Cancelled							

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Attny. Ref.: 2551-141
RULE 181 PETITION
September 23, 2010

Page 2 of the Office Action dated February 3, 1994 from the Examiner acknowledging that the application was filed according to 35 U.S.C. § 371":

Serial No. 920286
Art Unit 1802

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It is noted that this case has been filed according to 35 U.S.C. § 371.

5 Restriction to one of the following inventions is required:

10 I. Claims 1-7 and 20-25, drawn to first HCV antigen and method of use, classified in Class 530, subclass 324, and Class 435, subclass 5.

15 II. Claims 8-14 and 20-25, drawn to second HCV antigen and method of use, classified in Class 530, subclass 324, and Class 435, subclass 5.

20 III. Claims 15-19, and 20-25, drawn to third HCV antigen and method of use, classified in Class 530, subclass 324, and Class 435, subclass 5.

The inventions are distinct, each from the other because of the following reasons:

25 The inventions of Group I, II, and III are distinct because the antigens do not share a common technical feature in that each is encoded by a different region of the HCV genome and the antigens do not share any amino acid sequences nor any epitopes.

30 Because these inventions are distinct for the reasons given above and because an undue burden would result if two or more of the groups were to be examined together, restriction for examination purposes as indicated is proper.

35 Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

40 A telephone call was made to Cynthia Foulke on January 4, 1994, to request an oral election to the above restriction requirement, but did not result in an election being made.

45 Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(b).

50 Papers related to this application may be submitted to Group 180 by facsimile transmission. Papers should be faxed to Group 180 via the PTO Fax Center located in Crystal Mail 1. The faxing

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Page 2 of the Office Action dated August 16, 1994 from the Examiner again acknowledging that the application was being treated as having been filed under 35 U.S.C. § 371:

Serial Number: 07/220284

-2-

Art Unit: 1802

Applicant's election with traverse of Group III, Claims 15-19 and 20-25, in Paper No. 17 is acknowledged. The traversal is on the ground(s) that under 35 U.S.C. § 371, lack of unity requires that groups of claims must be identified which have no general inventive concept linking the claims of the groups with each other and that the originally filed claims all related to peptide sequences which are capable of mimicking proteins encoded by HCV and all can be used as reagents for screening blood for antibodies to HCV. This is not found persuasive because 35 U.S.C. § 371 provides for one product and one method of use; claims drawn to different peptides with different sequences and antigenic characteristic, originating from different viral domains and from different viral proteins, represent distinct products which have no common technical features.

The requirement is still deemed proper and is therefore made FINAL.

Claims 26-52 are pending, original claims 1-23 having been cancelled in Paper No. 14.

The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to provide an adequate written description of the invention and failing to teach how to make and/or use the invention.

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The Patent Office is requested to correct their records consistent with the file history of application no. 07/920,286. A Corrected Filing Receipt is requested.

Grant of the Petition is requested.

The Office is requested to contact the undersigned, preferably by telephone, in the event anything further is required.

Respectfully submitted,

NIXON & VANDERHYE P.C.

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